

## § 1650.64

### § 1650.64 Executive Director's exception to the spousal consent requirement.

(a) Whenever this subpart requires the consent of a spouse of a FERS or uniformed services participant to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of this subpart; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be inappropriate.

(i) An exception to the requirement for a spouse's signature may be granted based on exceptional circumstances only when the participant presents a court order or government agency determination that contains a finding or a recitation of exceptional circumstances regarding the spouse which would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed, but are exemplified by a court order or government agency determination that:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her TSP account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A post-employment withdrawal election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request form.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

## 5 CFR Ch. VI (1–1–11 Edition)

### PART 1651—DEATH BENEFITS

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SOURCE: 62 FR 32429, June 13, 1997, unless otherwise noted.

#### § 1651.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

*Administrative finding* means an evidence-based determination reached by a hearing, inquiry, investigation, or trial before an administrative agency of competent jurisdiction in any State, territory or possession of the United States.

*Death benefit* means the portion of a deceased participant's account that is payable under FERSA's order of precedence.

*Domicile* means the participant's place of residence for purposes of state income tax liability.

*Order of precedence* means the priority of entitlement to a TSP death benefit specified in 5 U.S.C. 8424(d).

*TIN* means a taxpayer identification number. A TIN may be a Social Security number (SSN), an employer identification number (EIN), or an individual taxpayer identification number (ITIN).

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